

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FREDERICK BOWEN,)
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Plaintiff,)
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)
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v.) **Case No. 1:22-cv-227**
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)
DEBORAH ANN MONNIE, et al.,)
)
)
Defendants.)

MEMORANDUM ORDER

The instant prisoner civil rights action was received by the Clerk of Court on July 20, 2022 and referred to United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and the Local Civil Rules of this Court. Plaintiff Frederick Bowen (“Plaintiff”) is an inmate at SCI-Albion who is insulin-dependent. In this *pro se* action, he has sued Nurse Deborah Ann Monnie, Correctional Health Care Administrator Patrick Nosko, Registered Nurse Luke Vogan, Practical Nurse Steven Uruquhart, and Registered Nurse Michael Edwards for the alleged violation of his Eighth and Fourteenth Amendment rights.

The lawsuit arises out of events that transpired on December 10, 2021 when, it is alleged, Nurse Monnie improperly administered two different types of insulin to Plaintiff in one single syringe, instead of administering the doses in two separate syringes. *See* ECF No. 14 at 8-9. Plaintiff claims that, after receiving the improper dosage, he experienced adverse side-effects, including ongoing migraine headaches. Plaintiff avers that Nurse Vogan subsequently lied about the type of insulin that Nurse Monnie had administered and, when questioned by Plaintiff, angrily remarked, “[H]aven’t you ever made a mistake before?” *Id.* ¶¶7-8. When Plaintiff returned to the medical department the following morning, he was seen by Nurse Urquhart, who

was allegedly “less interested in [Plaintiff’s] reason for his visit to [the] medical [department] and more interested in trying to convince [him] of the insulin he was given” the previous day. *Id.* ¶18. Plaintiff claims he asked to see a doctor but was not examined regarding his adverse reaction until January 4, 2022, despite having filled out two sick call slips. Plaintiff was allegedly informed that insulin injections would no longer be “preload[ed],” but he claims that no change has occurred, “allow[ing] for more wrong insulin and/or procedures.” *Id.* ¶21.

On October 18, 2022, Plaintiff filed a motion for temporary restraining order and preliminary injunction, which remains pending before the Court, ECF No. [16]. In his motion, Plaintiff alleges that “Ms. Monnie causes mental and physical harm to [him] by giving wrong injections and not paying attention.” ECF No. 16 at 3, ¶1. Plaintiff appears to seek an order from this Court requiring the assignment of a different nurse to administer his insulin injections.

Judge Lanzillo held a hearing on the motion on October 24, 2022, at the conclusion of which he issued an oral report and recommendation (“R&R”) that the Plaintiff’s motion be denied. *See* ECF No. [21]. Judge Lanzillo reasoned that Plaintiff was not entitled to preliminary injunctive relief because he had failed to demonstrate either a likelihood of success on the merits or potential irreparable harm. Factually, Judge Lanzillo found no evidence to suggest that Ms. Monnie’s actions on December 10, 2021 were intentional or likely to be repeated in the future. ECF No. 25 at 16:8-16. Further, Judge Lanzillo found that, “Nurse Monnie has since that date been ready, willing, and able to administer [Plaintiff’s] insulin and is competent to do so,” and “[a]ny missed doses of insulin by [Plaintiff] since that date have been the result of his own refusal to accept his insulin from Nurse Monnie.” *Id.* at 16:17-22. Although Plaintiff clearly preferred that a different nurse administer his insulin, Judge Lanzillo concluded that Plaintiff had “no constitutional, statutory, or other right to the nurse of his choice.” *Id.* at 16:25-17:2.

Plaintiff subsequently filed a “Notice of Appeal” from the R&R, in which he requested a copy of the transcript of the October 24, 2022 hearing. ECF No. 23. By Order entered November 1, 2022, the undersigned directed that an official copy of the transcript be produced and filed of record at the government’s expense pursuant to 28 U.S.C. §1915(c). ECF No. 24. The transcript was filed by the court reporter on November 8, 2022. ECF No. 25. That same day, the undersigned directed the clerk to send Plaintiff a copy of the transcript and also set deadlines for objections to the R&R. ECF No. 26.

Plaintiff’s objections were entered on the docket on December 2, 2022. ECF No. 31. In his objections, Plaintiff reiterates that Nurse Monnie’s actions have caused him to experience ongoing migraine headaches which interfere with his ability to work, read, write and leave his cell. He insists that “[Nurse Monnie’s] actions show she does not pay mind to medical conditions.” *Id.* at 1. He notes that there are two nurses available to provide insulin injections, and he insists that any hardship that the medical department would experience from having to utilize the second nurse is outweighed by the potential suffering he would experience if Nurse Monnie makes another mistake. Plaintiff also states that he suffers from mental health issues, which he believes this Court should take into account in rendering its ruling.

After *de novo* review of the complaint and documents in the case, including Plaintiff’s motion for a temporary restraining order and preliminary injunction and all related filings, along with the Magistrate Judge’s R&R and Plaintiff’s objections thereto, the following order is entered:

NOW, this 9th day of December, 2022;

IT IS ORDERED that Plaintiff’s motion for a temporary restraining order and preliminary injunction, ECF No. [16], shall be, and hereby is, DENIED.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued orally on the record on October 24, 2022, ECF No. [21] and [25], is adopted as the opinion of the Court. Plaintiff's objections to the report and recommendation are OVERRULED.

A handwritten signature in black ink, appearing to read "Susan Paradise Baxter". The signature is fluid and cursive, with "Susan" and "Paradise" on the first line and "Baxter" on the second line.

SUSAN PARADISE BAXTER
United States District Judge